

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 AID-05 OMB-01 CIAE-00 DODE-00 PM-03

H-02 INR-07 L-02 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 USIA-06 /061 W

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R 230903Z MAY 75

FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC 5285

INFO AMCONSUL HONG KONG

USLO PEKING

AMEMBASSY MANILA

AMEMBASSY SEOUL

C O N F I D E N T I A L TAIPEI 2889

EO 11652 GDS

TAGS PINS PINT SHUM TW

SUBJCT: COMMUTATION OF PRISON SENTENCES

REF A. TAIPEI 2746

B. TAIPEI 2121 (NOTAL)

C. TAIPEI 5315 OF OCTOBER 25, 1971 (NOTAL)

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1. INTRODUCTION AND SUMMARY: THE DRAFT STATUTE FOR THE COMMUTATION OF SENTENCES AND OFFICIAL COMMENTARIES ON IT THUS FAR SUGGEST THAT THE GOVERNMENT'S ACTION MAY BE BROAD IN SCOPE. THE STATUTE SPECIFICALLY BENEFITS CERTAIN CATEGORIES OF POLITICAL PRISONERS WHO WERE EXCLUDED IN THE 1971 GENERAL COMMUTATION (REF B AND C). WHILE TAIWANESE CLOSELY CONCERNED WITH THE POLITICAL PRISONERS ARE REPORTEDLY RESERVING JUDGEMENT ON THE GOVERNMENT'S ACTION, EMBASSY BELIEVES THE COMMUTATION IS A CREDITABLE GESTURE BY THE PREMIER TO THE TAIWANESE. FINAL ANALYSIS WILL OF COURSE BE DELAYED UNTIL AFTER JULY 14 WHEN IT WILL BE CLEARER WHO BENEFITS.

END SUMMARY.

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2. THE DRAFT STATUTE FOR COMMUTATION SUBMITTED TO THE LEGISLATIVE YUAN LISTS SEVERAL CATEGORIES OF PRISONERS WHICH LIE OUTSIDE THE SCOPE OF COMMUTATION.

IN ADDITION TO MAJOR CRIMES SUCH AS MURDER AND GROUP ROBBERY THERE ARE TWO POLITICAL CATEGORIES DECLARED INELIGIBLE: (1) MEMBERS OF THE COMMUNIST PARTY WHO ARE ALSO CONVICTED OF THE MOST SERIOUS OFFENSES UNDER THE SEDITION LAW; (2) THOSE GUILTY OF MAJOR FORMS OF CORRUPTION.(IN 1971 ALL THOSE CONVICTED OF ANY OFFENSE UNDER SEDITION AND CORRUPTION LAWS WERE AS A GROUP EXCLUDED FROM THE COMMUTATION.)

3. ALTHOUGH THE DRAFT STATUTE DOES NOT BENEFIT PEOPLE SENTENCED TO REFORMATORY EDUCATION UNDER THE PEACE PRESERVATION MEASURES, THE PREMIER REPORTEDLY TOLD THE KMT CENTRAL STANDING COMMITTEE ON MAY 21 THAT ADMINISTRATIVE MEASURES WILL BE TAKEN TO COMMUTE THEIR SENTENCES. WHEN TESTIFYING BEFORE THE LEGISLATIVE YUAN MINISTER OF JUSTICE WANG JEN-YUAN (3679/0117/6518) SAID THE "RELATED AGENCY", I.E., TAIWAN GARRISON GENERAL HEADQUARTERS (TGGH), WILL GRANT COMMUTATION TO THOSE "WHO MAY NOT CAUSE DANGER AGAIN." REPORTEDLY TGGH WILL PROMULGATE REGULATIONS IN "THE SPIRIT OF THE STATUTE FOR COMMUTATION". (IN APRIL OF THIS YEAR, ACCORDING TO WANG, THERE WERE 4600 PEOPLE UNDER GOING REFORMATORY EDUCATION INCLUDING APPROXIMATELY 100 POLITICAL OFFENDERS.)

4. WE HAVE NO WAY OF IDENTIFYING FOR SURE THOSE CATEGORIES WHICH MAY BENEFIT FROM THE GOVERNMENT'S ACTION; HOWEVER, TESTIMONY HEARD IN THE LEGISLATIVE YUAN SUGGESTS ACTION MAY BE FAIRLY BROAD. FEND CHI-TS'UNG (7458/0796/5115) VICE MINISTER OF NATIONAL DEFENSE, SAID IN THE LEGISLATIVE YUAN THAT ONLY THOSE WHO ACTUALLY JOINED THE CHINESE COMMUNIST PARTY (CCP) WOULD BE INELIGIBLE WHILE THOSE WHO JOINED PERIPHERAL COMMUNIST ORGANIZATIONS WOULD BENEFIT. DKMINISTER OF JUSTICE WANG ALSO IS REPORTED TO HAVE SAID THAT "CRIMINALS SUCH AS TAIWAN INDEPENDENCE ELEMENTS...(AND THOSE INVOLVED IN) THE FEBRUARY 28 INCIDENT WILL BE INCLUDED."

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5. AS THE DEPARTMENT IS AWARE WE HAVE NO RELIABLE OR EXHAUSTIVE LIST OF POLITICAL PRISONERS ON TAIWAN. THE MOST DETAILED LIST AVAILABLE HERE WAS PUBLISHED IN THE DECEMBER 1972 ISSUE OF RONIN MAGAZINE IN JAPAN. (ALLEGEDLY COMPILED BY CURRENT INMATE LI AO SEE PARA 6 BELOW). THE RONIN LIST GIVES NAMES OF 214 POLITICAL PRISONERS AS OF LATE 1970 AND FOLLOWING DETAILS: HOME PROVINCE, AGE

OCCUPATION, DATE AND AGENCY OF ARREST, CHARGES AND SENTENCE.

6. THE RONIN LIST SUGGESTS THAT APPROXIMATELY 135 PRISONERS (64 PERCENT) WOULD BE ELIGIBLE FOR COMMUTATION; ONLY 79 (36 PERCENT) ARE POSSIBLY INELIGIBLE BECAUSE OF BEING CONVICTED UNDER EXCLUDABLE SECTIONS OF THE LAW (ONLY TWO OF THESE, HOWEVER, CAN BE IDENTIFIED AS CCP MEMBERS). A NUMBER OF PROMINENT CASES WHICH HAVE IN THE PAST RECEIVED WIDESPREAD PUBLICITY APPEAR TO BE AMONG THOSE ELIGIBLE FOR SOME FORM OF COMMUTATION (ASSUMING THEY ARE NOT CONSIDERED MEMBERS OF THE COMMUNIST PARTY). THESE INCLUDE: HSIEH TSUNG-MIN (6200/5115/2404), LI AO (2621/2407), KUO I-TUNG (6753/5902/3159 AKA PO YANG), AND LIN SHUI-CHUAN (2651/3055/3123).

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6. THE QUALITY OF THE GROC'S MERCY IS SOMEWHAT STRAINED HOWEVER COMMUTABLE OFFENSES ARE DIVIDED INTO TWO CATEGORIES TO WHICH THE COMMUTATION LAW WILL BE APPLIED AS FOLLOWS: (A) DEATH SENTENCE REDUCED TO LIFE IMPRISONMENT, LIFE SENTENCE REDUCED TO 15 YEARS, AND OTHER SENTENCES REDUCED BY ONE-THIRD; (B) DEATH SENTENCE REDUCED TO LIFE IMPRISONMENT, LIFE SENTENCE REDUCED TO TEN YEARS, AND OTHER SENTENCES REDUCED BY ONE-HALF. MOST, IF NOT ALL THE POLITICAL PRISONERS ARE IN CATEGORY A.

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7. COMMENT: WE BELIEVE THE PREMIER HAS ACTED TO COMMUTE SENTENCES AT LEAST IN PART AS A GESTURE TO TAIWANESE IN GENERAL AND DISSIDENTS IN PARTICULAR. WHILE OUR TAIWANESE CONTACTS ARE RESERVING JUDGEMENT FOR THE MOMENT, THEY

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BELIEVE THAT IF A NUMBER OF PROMINENT DISSIDENTS BENEFIT FROM THE COMMUTATION, CCK'S STATURE WILL RISE AMONG THE TAIWANESE GENERALLY.

8. HOW THE GOVERNMENT INTERPRETS THIS LAW AND HOW THE COMMUTATION OF THOSE CONVICTED UNDER THE PEACE PRESERVATION MEASURES IS IMPLEMENTED WILL BE MAJOR FACTORS INFLUENCING POPULAR REACTION. WE NOTE THAT IT TOOK A MONTH FOR CONCERNED AGENCIES TO AGREE ON A DRAFT OF THE BILL AND WE SUSPECT THERE WAS CONSIDERABLE DISCUSSION IF NOT DISPUTE, ON HOW TO HANDLE VARIOUS CATEGORIES OF PRISONERS-- ESPECIALLY THE POLITICAL-- AND THAT THIS WILL CONTINUE UNTIL SHORTLY BEFORE JULY 14.

9. WE BELIEVE THAT THE DECISION TO SUBMIT A SPECIAL STATUTE

TO THE LEGISLATIVE YUAN RATHER THAN ACT UNDER THE PRESIDENT'S AMNESTY AUTHORITY AS SUGGESTED IN THE CHUNG YANG JIH PAO ON APRIL 22 WAS A DEFINITE EFFORT TO INSURE THE BROADEST BACKING POSSIBLE FOR THE PREMIER'S DECISION. WE DO NOT SEE THIS COMMUTATION AS A GESTURE TO THE PRC, AS SOME HAVE SUGGESTED (REF A), RATHER IT APPEARS TO BE PART OF THE CONTINUING EFFORT TO PROMOTE DOMESTIC UNITY AND TO BROADEN THE PREMIER'S BASE OF SUPPORT AMONG THE TAIWANESE.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PENAL REFORM, AMNESTY
Control Number: n/a
Copy: SINGLE
Draft Date: 23 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: johnsorg
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975TAIPEI02889
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750181-1075
From: TAIPEI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750521/aaaaaswt.tel
Line Count: 178
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 TAIPEI 2746
Review Action: RELEASED, APPROVED
Review Authority: johnsorg
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUL 2003 by ElyME>; APPROVED <14 NOV 2003 by johnsorg>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: T: COMMUTATION OF PRISON SENTENCES
TAGS: PINS, PINT, SHUM, TW, (CHIANG CHING-KUO)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006